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SUGGESTIONS

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A LAW TO REGULATE THE SALE

OF

SPIRITUOUS AND MALT LIQUORS.

BOSTON:
ROCKWELL AND ROLLINS, PRINTERS,
122 WASHINGTON STREET.
1867.

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Mar. 16. 1887.

LETTER.

To the Joint Special Committee on License:

In answer to your request, I herewith present my views of the system to license the sale of spirituous and malt liquors.

In the spirit of one who, from experience, knows the evil of the use of intoxicating liquors, and would desire that its use might be forever swept from existence, I have searched the records of history for aid, and find that, since the days of Noah, human nature has not changed. England has on its records laws designed to prohibit and regulate the drinking habits of the people from the reign of Edgar, in 958, to George III. Every variety of legislation was tried, but nothing could be found to effectually check the career of dissipation until, alarmed by prospects of famine, Parliament restricted distillation. This, if we believe the historian Smollet, touched the vitality of the disease, and by placing its cost beyond the reach of the people generally, produced a good result in diminishing the evil.

Legislation, to be productive of good, should not advance in the spirit of political partisanship, but should consider the inherent rights of all who have not forfeited the claim to citizenship. And while it should aim at the greatest good to the greatest number, it has its source in the necessity to bind together and protect the interests of society.

If all the States which compose our Union had one and the same interest, and their population could be brought

under the same influences, a great blow might be dealt to this pernicious destroyer through the General Government, by prohibiting the importation and manufacture of all but a limited distillation, according to population, taxing the same, so as to place the use of ardent spirits beyond the reach of the people generally, except for some purposes. As it is, and laboring under the difficulties of contending opinions in our various localities all over the land, it seems reasonable that, with a taste for stimulants so fearfully developed, a law should be made to turn into controllable channels the sale of all things the abuse of which is destructive to life and health. We have licenses to keep and sell gunpowder. We can procure of the apothecary poisons of the most deadly character. And we need a law which will protect all parties constituting the Commonwealth in their rights, in property and pursuits.

The individual citizen who has the legal right to import or purchase an article should have the legal right to sell the same; and the law cannot with justice prohibit him, but may regulate the sale. It is, to say the least, imprudent to take an *ex parte* view, and because a great number have abused themselves, to take it for granted that all others will do likewise. The present law was formed with the full view of pleasing temperance organizations. Their views, of course, are extreme, and naturally so. By this extreme legislation the less hurtful and almost harmless beverages, as cider, light wines, and beer, have been placed in the same category with alcoholic spirits.

This is one of the sources of the failure of the present law. The farmer will use his cider, the Teuton his lager-beer, and the Frenchman his wine, without injury to themselves. The general character of all is sobriety and industry.

The general use of the home-distilled whiskey was introduced in the days of Gov. Gardner's administration, when it became the fashion to drink Bourbon as a token of Americanism.

With the prevailing fashion, practised in this country only, of setting upon the bar the decanter for customers to help themselves, two evils are inevitable. The customer may help himself too liberally for his good, and hence the seller is compelled to give him poorer liquor for *his* supposed good. I consider this as one of the greatest sources of the evil of drunkenness. And no doubt most of the *deleterious* effects upon the health of the drinkers of the present day arise from poisonous and adulterated drinks, in most of which scarcely one half their component parts are what the name implies. Now, to counteract many, at least, of the evils which now exist, and always must exist, in illegal traffic, and for the sake of humanity, our Senators and Representatives might make a law which shall control what they cannot suppress. The undersigned humbly presents his deep convictions in asserting that the present prohibitory law, so called, fails of its aim for the following reasons : —

1. That so long as the laws of the land and State permit the importation and manufacture of liquors, and the law itself acknowledges the necessity of using such for medicinal and mechanical purposes, it is impossible to drive their use from the community.

2. That while the General Government, as well as the State Government, derive a revenue from the importation, manufacture, and sale of liquors, the power is lost of the same government to convince its members, as free citizens, that there can be a *moral* wrong in the use of it.

3. That a people who professedly govern themselves, will not be willing to be circumscribed or checked in the pursuit of their habit to drink that which physicians prescribe and *Town agents sell under license* from the State.

4. Public opinion cannot indorse the severity of the penalty of punishing with the House of Correction any infraction of this law by those who do not possess the favored protection of the legalized agent, inasmuch as probably two-thirds

of our community, either openly or clandestinely, use one or more of the proscribed liquors; and many give their countenance to the temperance cause who would not be willing to treat as felons those who supply them with liquor.

5. The extraordinary method by which the total abstinence pledge, adopted by the temperance organization, is attempted to be forced upon the community, without discrimination between alcoholic drinks and beverages which are not in themselves injurious, such as beer, wine, and cider.

6. That the sale of an article in which the law recognizes ~~as~~ a medicine, cannot be justly accounted a felony.

7. That no penalties are attached to the wilful neglect of officers charged with the enforcement of this law, while many of them have used their authority to satisfy their own desires without expense, and may do so without penalty.

8. The severity and certainty with which the law reaches the poor inebriate, to whom it metes out penalties which he cannot pay without injury to his family, or prescribes bars and bolts to secure him from temptation, while it does not reform the drunkard, brands him on his exit from the prison door and makes him more reckless and less hopeful of his future; and the sufferings of the innocent wife and children become a crying shame to the otherwise praiseworthy benevolence of this State. The true man must confess that the temptation is in himself, and arises from his moral and mental condition, and in cases as above, he will in nine cases out of ten seek to drown his sorrow and shame by plunging deeper into dissipation. Certain it is, that the power to reform is not in restraint nor coercion.

9, and finally. That the full execution of the law, as now framed, will re-establish the sideboard in all families who have not suffered from the abuse, and still believe in the use, of drinks as stimulants. Every person could buy of the importer, manufacturer, and wholesale dealer by the original package, which would soon assume convenient sizes, while

the State, as represented by its legalized agents, would by its political power usurp the privilege of dealing out destruction to its constituents in less quantities than the original package. For who shall discriminate, when unprincipled physicians prescribe and mechanics demand the article for their use?

Having faith that the cause of temperance and humanity will be better served by a rational law regulating the sale of pure and unadulterated drinks, I append suggestions which may serve as a basis for a law which will be just to all parties, and to which, no doubt, other minor details may be added to give it a proper form.

THEO. VOELCKERS.

Boston, *Feb.* 15, 1867.

Be it enacted, etc., that for the use of any city or town which by general vote may elect to establish a system of license for the sale of spirituous liquors,

1st. The Mayor and City Council, or the Selectmen of any town, which, by a vote of a majority of its citizens shall so decide, shall be authorized and empowered to grant licenses for the sale of spirituous and malt liquors, etc., to not more than one person for every 3,000 inhabitants, or under the conditions as herein classified:

a. The citizen applying for a license, shall, if found trustworthy, pay into the treasury of said town or city for the support of the poor, the following sums of money:—

b. Hotel license $2,000, and for each lodging or sleeping room exceeding the number of twenty-five, an additional sum of $10 per annum each.

c. Victualling or eating-house license, for sale of malt liquors and cider, $500 per annum.

d. Retailer of spirituous liquors, $2,000 per annum.

e. Apothecaries, as at present.

Each licensed seller shall pay into the said treasury,

monthly, 10 per cent. of all cash taken for sales made, and shall keep a correct account of the daily receipts in books, which shall be open to any of the Inspectors or town or city government officials.

This fund shall form a guarantee for penalties which may be assessed during the year for the infraction of any of the following conditions, provided, however, that said moneys shall be returned to said license-holders without interest, if they have complied with all the rules and regulations as herein set forth:

1. All liquors to be sold by any party, shall be pure and unadulterated, except that spirits may be reduced by water to proof.

Inspectors shall be appointed, with high salaries, whose duty it shall be to visit each licensed establishment once a week, to test *all* liquors accessible, and who shall, if adulterated spirits or drinks shall be found, seize and destroy the same.

2. All liquors shall be sold by the measure, and in no case shall a decanter, or bottle, or other vessel, be placed before a customer to help himself.

3. No sales shall under any circumstances be made to minors. Penalty, $500.

4. No sales shall be made to any person known to abuse the same, or who is visibly under influence of intoxication. Penalty, $500 for each offence.

5. In no retailer's establishment unless expressly kept and licensed as a victualler, shall any luncheons or refreshments be set out to be used by customers. Penalty, $20 for each offence.

6. Any person who shall be dependent for support on one who stimulates to his own ruin, may on proof to the authorities have the name recorded in a Register to be kept, and every licensed vender shall be notified, and shall not sell to such. Penalty, $500.

7. No place, except hotels and victuallers, shall be allowed make sale on Sunday; and then only at the public table, and in no other way.

8. No officer shall be charged with the execution of the duties of Inspector, who is known to drink spirituous liquors; and any wanton neglect of his duties shall be punished with heavy penalties.

9. No retailer shall open his place of business for the sale of his goods, before six o'clock in the morning, nor keep it open after eleven o'clock at night. Penalty, $25 for each offence.

The constituted town or city government, without the aid of other litigation, shall upon proper evidence convict the parties of any breach of the restrictions, and collect the fines from the moneys in their possession of the ten per cent. on sales deposited as prescribed; and in case any one licensed person shall withhold this ten per cent., he shall be compelled to surrender his license, and forfeit all the fees and moneys paid by him into the treasury.

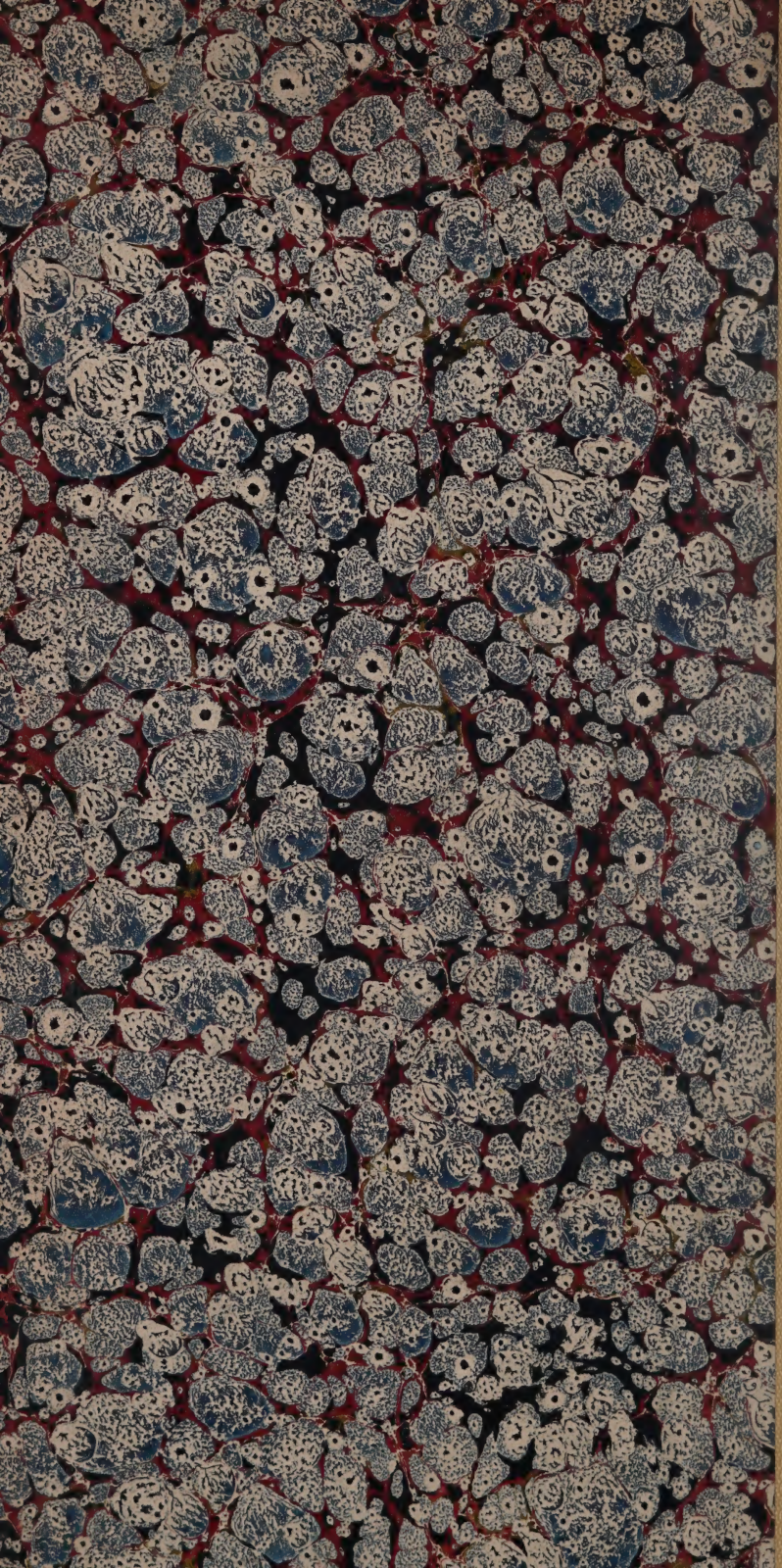
Any false or incorrect entry made into the books for every day's sale, whether for cash or on time, shall be punished with a fine of $100 for each entry so made, and after conviction, on proper evidence, notice shall be served that on repetition the license shall be void, and no claim for moneys shall be allowed as above in article 1.

If any person within the town or city where licenses are given, or in any portion of the State where such are not given, shall be found to retail and sell, either publicly or secretly, any spirituous or malt liquors, wines or cider, without the proper license, all his stock in liquors, which may be found on the premises, shall be confiscated, including the vessels, barrels, or bottles in which it is contained, together with bar, fixtures, &c., and shall be sold for the benefit of the poor.

The Inspectors shall be appointed by the town or city, and be approved by the Governor and Council.

Any city or town may delegate the power of prosecution

and execution of these regulations to Policemen, or citizens acting as such.

The present laws shall remain in full force for any and all sections in which this license system is not adopted by vote of the people.

All powers to adjudge, try, and regulate cases occurring under this license act, shall be vested in the town or city officers, as elected by the people.